

Article - Estates and Trusts

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§15–508.

(a) In this section, “entity” means a corporation, partnership, limited liability company, regulated investment company, real estate investment trust, common trust fund, or any other organization in which a trustee has an interest other than a trust or estate to which § 15–509 of this subtitle applies, a business or activity to which § 15–510 of this subtitle applies, or an asset-backed security to which § 15–522 of this subtitle applies.

(b) Except as otherwise provided in this section, a trustee shall allocate to income money received from an entity.

(c) Except as provided in subsection (f) of this section, a trustee shall allocate the following receipts from an entity to principal:

(1) Property other than money;

(2) Money received in one distribution or a series of related distributions in exchange for part or all of a trust’s interest in the entity;

(3) Money received in total or partial liquidation of the entity; and

(4) Money received from an entity that is a regulated investment company or a real estate investment trust if the money distributed is a capital gain dividend for federal income tax purposes.

(d) Money is received in partial liquidation:

(1) To the extent that the entity, at or near the time of a distribution, indicates that it is a distribution in partial liquidation; or

(2) If the total amount of money and property received in a distribution or series of related distributions is greater than 20 percent of the entity’s gross assets, as shown by the entity’s year-end financial statements immediately preceding the initial receipt.

(e) Money is not received in partial liquidation, nor may it be taken into account under subsection (d)(2) of this section, to the extent that it does not exceed the amount of income tax that a trustee or beneficiary must pay on taxable income of the entity that distributes the money.

(f) (1) (i) In this subsection the following words have the meanings indicated.

(ii) “Investment fund” means an entity that is exempt from registration under the Investment Company Act of 1940 based on the authority in 15 U.S.C. § 80a–3(c)(1), is treated as a partnership for federal income tax purposes, has 50 or more investors, and more than half the assets of which consist of cash and marketable securities, including its proportionate share of these assets owned by any entity in which it owns an interest.

(iii) “Unit” means an equity interest in an investment fund.

(2) If the trustee makes an irrevocable written election to have this subsection apply, distributions per share or unit made in any calendar year by a regulated investment company or an investment fund from realized or unrealized capital gains occurring in the calendar year shall be allocated by the trustee to income to the extent required in order for the sum of the distributions per share or unit from ordinary income and from realized or unrealized capital gains to equal an amount determined by multiplying the net asset value of a share or unit of the regulated investment company or investment fund on January 1 of such calendar year (or on such later date of acquisition by a trustee during such calendar year) by the annual federal mid–term rate applicable to January 1 of such calendar year (or to such later date of acquisition) established by the Secretary of the Treasury under § 1274(d)(1) of the Internal Revenue Code of 1986, adjusted to reflect the proportion of the calendar year in which the share has been held by a trustee.

(g) A trustee may rely upon a statement made by an entity about the source or character of a distribution if the statement is made at or near the time of distribution by the entity’s board of directors or other person or group of persons authorized to exercise powers to pay money or transfer property comparable to those of a corporation’s board of directors.

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